

Presenting Electronic Evidence to Deliberating Petit Jurors

If a party to any civil or criminal case would like to present admitted trial exhibits in electronic format for inspection and review by a deliberating jury, the following procedures must be complied with:

1. Any such request shall be made in a formal written pleading filed in the case. Such a request shall be filed at the earliest opportunity but no later than the final pretrial conference or, if none occurs, no later than two weeks prior to the date of jury selection.
2. Each written request should address the following:
 - a. the scope of the presentation; and
 - b. the manner in which the evidence will be presented:
 - i. by court or party supplied laptop or desktop, courtroom equipment, or other electronic storage/presentation devices;
 - c. what, if any, specialized software will be necessary:
 - i. if the court supplied equipment is to be used, how the software installation (5 working days in advance) will be accomplished;
 - ii. the extent to which the presentation software and actual electronic evidence is protected from modification (tamper proof);
 - d. the precise manner in which the electronic evidence will be retrieved and reviewed by the jury:
 - i. whether the foreperson will be able to retrieve the information with a simple instruction
 - e. whether a special jury instruction is necessary and appropriate in order to protect the integrity of the deliberation process;
3. It is preferred that the parties use a court supplied laptop and that the evidence be stored on a CD/DVD for easy use by the jury itself. If court supplied equipment is requested, however, counsel must insure that it is available during the trial period. Additionally, if specialized document management software is required, it is counsel's responsibility to bring this to the court's and opposing counsel's attention. Every attempt should be made to arrive at an agreement as to the precise manner and means in which the jury will receive the electronic evidence.

4. The requesting party shall have the final version of the proposed electronic evidence available at the conclusion of the court's charge to the jury. Only exhibits admitted into evidence at trial may be included in the electronic evidence submission. The failure of a party to present a final version in electronic format in a timely manner may result in an order precluding the submission of exhibits in that format.
5. Absent court order, no person, including members of the court's staff, will be allowed to stay in the deliberation room/courtroom to assist the jurors with the operation of any equipment during deliberations.
6. It is requesting counsel's responsibility to comply with the foregoing procedures, to insure that the equipment, software, and electronic evidence they supply are available and operational, and to insure that only information that has been approved by the presiding judge reaches the jury.

Absent full compliance with all the above provisions, evidence will be reviewed and considered by a deliberating jury using conventional means.